

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CHRISTY VARELA,

Plaintiff,

vs.

CIV NO. 2:24-cv-00199-KRS

MARTIN O'MALLEY,
Commissioner of Social Security,

Defendant.

ORDER GRANTING JOINT MOTION FOR ATTORNEY FEES
PURSUANT TO THE EQUAL ACCESS TO JUSTICE ACT

The Court, having reviewed the Joint Motion for Attorney Fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412 (Doc. 17), **HEREBY ORDERS** that:

1. Attorney fees are awarded under the EAJA, payable to Plaintiff but mailed to Plaintiff's attorney in the amount of \$840.00 in attorney fees. *See Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney);
2. If Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986); and
3. Plaintiff's previously filed motion for the EAJA fees (Doc. 16) is **DENIED** as moot.

IT IS SO ORDERED.



HONORABLE KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE